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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,284	11/20/2003	Akira Fukushima	03627/LH	3180

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NEW YORK, NY 10001-7708

EXAMINER

BEACH, THOMAS A

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/719,284

Applicant(s)

FUKUSHIMA, AKIRA

Examiner

Thomas A. Beach

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed 09/02/05.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Taghon 4,393,41. Taghon shows a crawler frame for a construction machine having a center frame 6 and right and left track frames 17 disposed on the right and left sides of the center frame so as to extend in a back and forth direction, wherein the center frame comprises a central frame section 6 and legs 41 for connecting the central frame section to the track frames, and the legs are formed from cast steel.

As concerns claim 2, Taghon shows the legs of the center frame have a tubular shape and the top faces (since the "top faces" has not been set forth in the claim as being in any particular direction) of the legs are convex in cross-section (figure 4).

3. Claims 1 and 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 11-93209. JP '209 shows a crawler frame 8 for a construction machine having a center frame and right and left track frames 1 disposed on the right and left sides of the center frame so as to extend in a back and forth direction, wherein the center frame comprises

a central frame 45 section and legs 33/46 for connecting the central frame section to the track frames, and the legs are formed from cast steel.

As concerns claims 4 and 5, JP '209 shows a joint flange section 39 joined to the central frame section is provided at the inner end of each leg and a joint flange section joined to a said track frame is provided at the outer end of the leg (figure 2).

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by JP 2001-106128. JP '128 shows a crawler frame for a construction machine having a center frame 1 and right and left track frames 7 disposed on the right and left sides of the center frame so as to extend in a back and forth direction, wherein the center frame comprises a central frame section 3 and legs 5, 6, 8, 9 for connecting the central frame section to the track frames, and the legs are formed from cast steel.

5. Claims 1 and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 9-209402. JP '402 shows a crawler frame (figs. 1 & 3) for a construction machine having a center frame and right and left track frames 2' disposed on the right and left sides of the center frame so as to extend in a back and forth direction, wherein the center frame comprises a central frame 1' section and legs 1'U for connecting the central frame section to the track frames, and the legs are formed from cast steel.

As concerns claims 4 and 5, JP shows a joint flange section 1'C joined to the central frame section is provided at the inner end of each leg and a joint flange section joined to a said track frame is provided at the outer end of the leg (figure 2).

As concerns claim 6, JP shows the legs are inner end to the outer respectively gently widened from the end (figs. 6 & 11).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001-106128 in view of Braithwaite 4,069,637. JP '128 does show legs of the center frame 5, 6, 8, and 9, but does not show the legs to have top faces that are convex or a cylindrical pipe shape in cross section. However, Braithwaite shows a similar crawler vehicle 10 where the tubular structural elements 48, 50 are shown to have top faces that are convex or a cylindrical pipe shape in cross section. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify JP '128, as taught by Braithwaite, to include cylindrical cross section to improve the strength of the structural members of a crawler (col. 1, lines 34-46).

8. Claims 2-3 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 9-209402 in view of Braithwaite 4,069,637. JP '402 does show legs 1'C of the center frame that are tubular (box-shaped), but does not show the legs to have top faces that are convex or a cylindrical pipe shape in cross section. However, Braithwaite shows a similar crawler vehicle 10 where the tubular structural elements 48, 50 are shown to have top faces that are convex or a cylindrical pipe shape in cross section. Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify JP '402, as taught by Braithwaite, to include cylindrical cross section to improve the strength of the structural members of a crawler (col. 1, lines 34-46).

As concerns claims 7-8, the combination shows a joint flange section (1'C; JP'402) joined to the central frame section provided at the inner end of each leg and a joint flange section joined to a said track frame is provided at the outer end of the leg (fig 11).

Response to Arguments

9. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Beach whose telephone number is 571.272.6988. The examiner can normally be reached on Monday-Friday, 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571.272.6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Thomas A. Beach

November 23, 2005

THOMAS A. BEACH
Patent Examiner
Group 3600